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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NELSON SOSA and RUBEN VELEZ,

Plaintiff,

Case No.: 20-CV-4705  
(MKV)

-against-

**NOTICE OF MOTION**

BENTIS FRESH BREAD INC. (D/B/A BENTI'S FRESH  
BREAD INC.), OLDE BAKERY SHIPPE INC. (D/B/A  
OLDE BAKERY SHOPPE), ANTHONY BENTIVEGNA,  
and LOUIS BENTIVEGNA

Defendants.  
-----X

**NOTICE OF MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM PURSUANT  
TO FRCP 12 (b)(6)**

**PLEASE TAKE NOTICE**, that upon the annexed application of Defendants ANTHONY BENTIVEGNA and BENTIS FRESH BREAD INC., the supporting memorandum of law, and Declaration of Stephen D. Hans, Esq; Declaration of Anthony Bentivegna and the exhibits annexed thereto, the undersigned will move this Court before the Honorable Mary K. Vyskocil, United States District Judge, located at the United States District Court of the Southern District of New York, 40 Foley Square, New York, NY 10007, or as soon thereafter as counsel may be heard, for an Order dismissing the Plaintiffs' Complaint against Defendant ANTHONY BENTIVEGNA and BENTIS FRESH BREAD INC., pursuant to the Motor Carrier Act exemption of the FLSA 29 USC 213 (b) (1) in that the wage and hour provisions of Sec 207 of Title 29 do not apply to the Plaintiff's employment and such other and further relief this Court deems just and proper.

February 17, 2021, pursuant to the briefing schedule prior endorsed by the Court.

STEPHEN D. HANS & ASSOCIATES, P.C.

By: \_\_\_\_\_ /s/

**Stephen D. Hans (SH-0798)**

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**BENTIVEGNA and BENTIS FRESH**

BREAD INC.